

AGENDA

SAN BRUNO COMMUNITY FOUNDATION

Regular Meeting of the Board of Directors

March 20, 2014

6:30 p.m.

**Meeting Location: San Bruno City Hall, Conference Room 115,
567 El Camino Real, San Bruno**

In compliance with the Americans with Disabilities Act, individuals requiring reasonable accommodations or appropriate alternative formats for notices, agendas, and records for this meeting should notify us 48 hours prior to meeting. Please call the City Clerk's Office 650-616-7058.

1. Call to Order/Welcome

2. Roll Call

3. Approval of Minutes: February 15, 2014, Special Board Meeting

4. Announcements

5. Boardmember Comments

- a. President
- b. Others

6. Consent Calendar: All items are considered routine or implement an earlier Board action and may be enacted by one motion; there will be no separate discussion unless requested by a Boardmember, citizen, or staff.

- a. Adopt Resolution Ratifying Formation of Executive Committee to Include President, Vice-President, and Treasurer
- b. Adopt Resolution Establishing Signature Authority for Treasurer and One Other Board Officer

7. Conduct of Business

- a. Receive Report and Presentation, and Provide Direction Regarding Directors and Officers Insurance for SBCF Board Members
- b. Receive Report Regarding Ongoing Activities for Continuing Formation and Establishment of SBCF
- c. Receive Report and Provide Direction Regarding Establishment of Required Board Policies
- d. Receive Report and Provide Direction Regarding Preparation of a 3-year Budget for SBCF's 501(c)(3) Application

Nancy A. Kraus, *President*
John P. McGlothlin, *Vice President*
Emily Roberts, *Secretary*
Ben Cohn, *Treasurer*
Patricia Bohm
Frank Hedley
Regina Stanback Stroud

SAN BRUNO COMMUNITY FOUNDATION

8. Public Comment: Individuals are allowed three minutes, groups in attendance, five minutes. If you are unable to remain at the meeting, contact the President to request that the Board consider your comments earlier. It is the Board's policy to refer matters raised in this forum to staff for investigation and/or action where appropriate. The Brown Act prohibits the Board from discussing or acting upon any matter not agendized pursuant to State Law.

9. Adjourn

Nancy A. Kraus, *President*
John P. McGlothlin, *Vice President*
Emily Roberts, *Secretary*
Ben Cohn, *Treasurer*
Patricia Bohm
Frank Hedley
Regina Stanback Stroud

MINUTES
SAN BRUNO COMMUNITY FOUNDATION
SPECIAL MEETING OF THE BOARD OF DIRECTORS
FEBRUARY 15, 2014
9:00 a.m. – 3:00 p.m.

**Meeting Location: San Bruno City Hall, Conference Room 115,
567 El Camino Real, San Bruno**

In compliance with the Americans with Disabilities Act, individuals requiring reasonable accommodations or appropriate alternative formats for notices, agendas, and records for this meeting should notify us 48 hours prior to meeting. Please call the City Clerk's Office 650-616-7058.

1. **Call to Order/Welcome:** President Kraus called the meeting to order at 9:00 a.m.
2. **Roll Call:**
Present: President Kraus, Vice President McGlothlin, Secretary Roberts, Treasurer Cohn, Board members Bohm, Hedley, and Stanback Stroud.
3. **Review of Minutes:** December 12, 2013 minutes were approved as presented. (M/S JM/RSS) January 25, 2014 minutes were approved subject to verification of Executive Director commentary. (M/S FH/RSS)
4. **Announcements:** The SBCF Federal Tax ID has come through.
5. **Boardmember Comments:**
 - a. President Kraus shared a letter requesting Foundation support for the Relay for Life in San Bruno. Board members agree they are not yet prepared to support any requests as a foundation. Policies, goals, funds have not yet been determined. The Board will have further discussion on how to handle requests and applications for funding going forward.
6. **Conduct of Business:**
 - a. **Adopt Regular Board Meeting Schedule:** Adoption of Resolution 2014-01, regular public board meetings on the third Thursday of each month to begin at 6:30 p.m., 567 El Camino Real, San Bruno, Room 115. (M/S PB/JM)
 - b. **Ratify Executive Committee Composition:** Executive Committee will consist of the President, Vice President, and Treasurer. (M/S FH/ER) The Foundation requested a resolution to this effect to review at the next meeting.
 - c. **Review Insurance Coverage Options:** Packets should be available for Board members to review before the next meeting.
7. **Conduct Board of Directors Orientation:**
 - a. **Discuss Next Steps for Foundation Operations:** Mari Ellen Loijens of Silicon Valley Community Foundation reviewed:
 - Signature Authority: Signature authority determines who will sign and how many signatures will be required on financial transactions and contracts. The Foundation requested a resolution stating the requirement of two Officer signatures for all financial transactions and contracts, with one of the two being that of the Treasurer.
 - Bank Account: Once Signature Authority is in place, a bank account can be opened with some initial assets in order to begin paying bills.

- **Reassignment of Contracts:** New agreements between the SBCF and outside vendors will need to be executed.
- **Payout Rate:** The Payout Rate is the amount of money in which the SBCF will spend in grants and expenses in any given year. The establishment of a payout rate drives many other decisions for the organization. Board members shared ideas in order to come to an agreement as to how they will interpret the Mission Statement and what "enduring" means to the SBCF. The Board discussed the idea of a conservative payout rate of 5% a year, possibly allowing the trust to exist in perpetuity. They also discussed the responsibility of making sure the money benefits the people here and now. The Board will continue this discussion by incorporating additional financial information, community input, and examining the pros and cons of the available options.
- **Budget:** It is required that the Board approves a budget and it is needed for IRS filing. A budget committee could be formed to draft a budget and it should be done before hiring staff. Budgets can be amended, if needed.
- **Investments:** The Board's investment policy should be shaped to the Board's risk/return tolerance within best practices in the nonprofit field and ensure proper liquidity for anticipated activities.
- **Staff Infrastructure:** Staff Infrastructure refers to a plan for how payroll will be processed, benefits will be issued, and employment insurance maintained. Before any hiring can begin, the infrastructure will need to be in place. The SBCF can be the hiring party or the Foundation can contract out or partner with another organization until the SBCF has built up its infrastructure.
- **Hiring:** The State of California has specific rules regarding hiring and compensation of Executive Director, Chief Executive Officer, and Chief Financial Officer positions to ensure best practices. Once the payout rate for the Foundation has been determined, it should be included in the job description. After an Executive Director is hired, it is that person's responsibility to hire all other staff. Hiring of an Executive Director will probably be, at minimum, an eight week process.
- **Strategic Plan:** A strategic plan can cover one or many years and helps to shape the grant making focus as well as provide direction to the subcommittees of the Board. Once the payout rate has been established, a committee focusing on strategic planning should be organized.
- **Communication and Brand Identity:** Branding should be in line with the strategic plan and a logo should represent the Boards interpretation of the Mission Statement.

b. Receive Presentation and Discuss Investment Strategies and Policy: Lyn Hutton of Prager & Co., LLC discussed Board responsibilities and how they relate to investment management functions, focusing on policies and accountability, now and in the future. Hutton noted the following key considerations:

- Decisions about grant making, fundraising and spending will drive the budget. This should precede investment management decisions.
- The Board will need to determine how to interpret the mission statement to plan an effective investment management strategy.
- The Board will need to establish an investment policy statement and figure out the best way to manage assets, possibly with help from a subcommittee dedicated to this function.

8. Public Comment: None.

Individuals are allowed three minutes, groups in attendance, five minutes. If you are unable to remain at the meeting, contact the President to request that the Board consider your comments earlier. It is the Board's policy to refer matters raised in this forum to staff for review and/or action where appropriate. The Brown Act prohibits the Board from discussing or acting upon any matter not agendaized pursuant to State Law.

8. Adjourn: 3:00 p.m.

MEMORANDUM

SAN BRUNO COMMUNITY FOUNDATION

DATE: March 20, 2014

TO: Board of Directors, San Bruno Community Foundation

FROM: Marc L. Zafferano, City Attorney

SUBJECT: Adopt Resolution Ratifying Formation of the Executive Committee to Include the President, Vice-President, and Treasurer

On October 21, 2013, the Mayor signed the Bylaws of the SBCF after the full City Council had approved them at a previous public meeting. Article V, Section 3(a) of the Bylaws states that the authorized number of Directors shall be no fewer than five and no more than eleven. Article VII, Section 4 states that the Executive Committee consists of the president, vice-president, treasurer, and secretary.

When the Bylaws were approved, the City Council had not yet decided how many Directors would be appointed to the Board. The City Council then appointed seven members to the Board. As an unintended result, the four-member Executive Committee would have constituted a majority of the Board, whose meetings would then become the functional equivalent of a Board meeting. Accordingly, City staff has recommended that the Executive Committee operate to include only the president, vice-president, and treasurer at this time. The secretary has agreed to this arrangement. City staff has been advised by its consultants from the Silicon Valley Community Foundation that after the SBCF achieves 501(c)(3) status, the Board may consider amending the Bylaws.

City staff recommends adopting the attached Resolution to ratify the three-member Executive Committee at this time.

Attachment

SBCF Mtg Date: 3.20.14
Item No. 6a

RESOLUTION NO. 2014 - ____

**RESOLUTION OF THE SAN BRUNO COMMUNITY FOUNDATION
RATIFYING FORMATION OF THE EXECUTIVE COMMITTEE
TO INCLUDE THE PRESIDENT, VICE-PRESIDENT, AND TREASURER**

WHEREAS, the Bylaws of the San Bruno Community Foundation were adopted on October 21, 2013 by the San Bruno City Council;

WHEREAS, Article V Section 3(a) of the Bylaws states that the authorized number of directors of the SBCF shall be no fewer than five and no more than eleven;

WHEREAS, Article VII Section 4 of the Bylaws states that the Executive Committee shall consists of the President, Vice-President, Treasurer, and Secretary of the corporation; and

WHEREAS, a four-member Executive Committee would constitute a quorum of the Board.

NOW, THEREFORE, BE IT RESOLVED that the Executive Committee shall operate to include the President, Vice-President, and Treasurer until otherwise resolved by the Board.

Dated: March 20, 2014

ATTEST:

Emily Roberts, Secretary

I, Emily Roberts, Secretary, do hereby certify that the foregoing Resolution No. 2014-____ was duly and regularly passed and adopted by the Board of Directors of the San Bruno Community Foundation this 20th day of March, 2014, by the following vote:

AYES: Boardmembers:

NOES: Boardmembers

ABSENT: Boardmembers:

MEMORANDUM

SAN BRUNO COMMUNITY FOUNDATION

DATE: March 20, 2014

TO: Board of Directors, San Bruno Community Foundation

FROM: Marc L. Zafferano, City Attorney
Mari Ellen Loijens, Silicon Valley Community Foundation

SUBJECT: Adopt Resolution Establishing Bank Signature Authority for
Treasurer and One Additional Board Officer

At the Board orientation on February 15, 2014, the City's consultant from the Silicon Valley Community Foundation facilitated a discussion regarding approval of the Board's "corporate resolution," a document necessary for the SBCF to open a bank account once the funds are transferred from the City's account to the SBCF. The Board decided by unanimous vote that the treasurer and one additional Board officer (President, Vice-President, or Secretary) should be required to sign the documents necessary to open an account and transact business with the bank.

City staff recommends adopting the attached Resolution to accomplish this preliminary step.

Attachment

SBCF Mtg Date: 3-20-14
Item No. 65

RESOLUTION NO. 2014- ____

**RESOLUTION OF THE SAN BRUNO COMMUNITY FOUNDATION
ESTABLISHING BANK SIGNATURE AUTHORITY FOR TREASURER AND ONE
ADDITIONAL BOARD OFFICER FOR THE SAN BRUNO COMMUNITY FOUNDATION**

WHEREAS, at a meeting of the Board of Directors of the San Bruno Community Foundation, a nonprofit public benefit corporation organized and existing under and by virtue of the laws of the State of California, was held on March 20, 2014, at which said meeting a quorum was present and acting throughout;;

WHEREAS, the following individuals have been elected to the officer positions listed and no other individuals have held these positions:

President	Nancy Kraus
Vice President	John McGlothlin
Treasurer	Ben Cohn
Secretary	Emily Roberts

NOW, THEREFORE, BE IT RESOLVED by the San Bruno Community Foundation Board of Directors that the President shall serve as chief executive officer of the corporation.

BE IT FURTHER RESOLVED that the Treasurer and one other officer of the San Bruno Community Foundation acting together are hereby authorized to transfer, endorse, sell, assign, set over, and deliver any and all property or shares of stocks, bonds, debentures, notes, evidences of indebtedness, or other securities now or hereafter standing in the name of or owned by this nonprofit corporation and to make, execute, and effectuate the authority hereby conferred.

BE IT FURTHER RESOLVED that the Treasurer and one other officer of the San Bruno Community Foundation acting together are hereby authorized to open or close a financial account in the name of the San Bruno Community Foundation for the deposit of stocks, bonds, securities, cash, and instruments or other property held or owned by the San Bruno Community Foundation, and on behalf of the San Bruno Community Foundation execute and deliver any agreement or agreements which may be required by the financial institution in connection with such account.

BE IT FURTHER RESOLVED that the authority thereby conferred is not inconsistent with the Articles of Incorporation or bylaws of the San Bruno Community Foundation, and that the individuals listed above comprise a true and correct list of the officers of this nonprofit corporation as of March 20, 2014.

Dated: March 20, 2014

ATTEST:

Emily Roberts, Secretary

I, Emily Roberts, Secretary, do hereby certify that the foregoing Resolution No. 2014-___ was duly and regularly passed and adopted by the Board of Directors of the San Bruno Community Foundation this 20th day of March, 2014, by the following vote:

AYES: Boardmembers:

NOES: Boardmembers

ABSENT: Boardmembers:

MEMORANDUM

SAN BRUNO COMMUNITY FOUNDATION

DATE: March 20, 2014

TO: Board of Directors, San Bruno Community Foundation

FROM: Marc L. Zafferano, City Attorney

SUBJECT: Receive Report and Presentation, and Provide Direction regarding Directors and Officers Insurance for SBCF Board Members

Before the SBCF Board embarks on making any significant decisions, it is advised to first obtain Directors and Officers insurance. Accordingly, City staff contacted the City's excess coverage insurance broker, Seth Cole at Alliant Insurance Services, Inc. Alliant provides coverage for ABAG Plan, a risk pool of 23 public entities. Alliant is also familiar with non-profits. Applications were submitted and Alliant approached a total of eleven different markets, requesting quotations for coverage in the amount of \$1,000,000 with a \$50,000 retention.

Two insurance companies, both admitted in California, provided quotes for a one-year policy: RSUI Indemnity Company's quote was \$19,950 and AIG's quote was \$15,436. Alliant will be recommending binding coverage with RSUI, as they provide significantly broader coverage than AIG. It is likely that other insurance companies declined to provide a quote because the SBCF is still in its formative stages.

It should be noted that once SBCF begins full operations, it will also need to obtain a general liability policy as well as a crime liability policy, but neither policy is required at this time.

Mr. Cole will be present at the meeting to provide a brief report and answer questions. City staff recommends that the Board provide direction to bind a policy of insurance for Directors and Officers coverage.

Attachment

SBCF Mtg Date: 3.20.14
Item No. 7a



**SAN BRUNO COMMUNITY FOUNDATION
NON-PROFIT DIRECTORS AND OFFICERS LIABILITY
2014-15 PROPOSAL - RSUI**

NAMED INSURED:	San Bruno Community Foundation	
COMPANY:	RSUI Indemnity Company	
A.M. BEST'S RATING:	A XIII	
S&P'S RATING:	Not Available	
CA STATUS:	Admitted	
PROPOSED TERM:	TBD	
COVERAGE:	Non-Profit Directors and Officers Liability - <i>Claims Made and Reported Form</i>	
COVERAGE FORM:	RSG 211003 0609 D&O Liability Policy - Not For Profit Organization - 2009	
COVERED TERRITORY:	Worldwide	
LIMITS:	\$1,000,000	Per Claim
	\$1,000,000	Aggregate Limit
RETROACTIVE DATE:	TBD	
RETENTION:	\$0	Each Claim - Insuring Agreement A
	\$50,000	Each Claim - Insuring Agreement B
	\$50,000	Each Claim - Insuring Agreement C
ANNUAL PREMIUM:	\$19,650	Policy Premium
	\$300	Wholesaler Service Fee
	\$19,950	Total Cost
MINIMUM EARNED PREMIUM:	0% Minimum Earned Premium	
FORMS & ENDORSEMENT (including but not limited to):	Amended Definition of Claim-Tolling or Waiving of Statute	RSG 204175 0710
	Amended Settlement Provision	RSG 204160 1210
	California Changes - Cancellation and Nonrenewal	RSG 203005 0611
	Cap on Losses From Certified Acts of Terrorism	RSG 204081 0108
	Disclosure Pursuant to Terrorism Risk Insurance Act	RSG 204123 0108
	Exclusion - Anti-Trust Claim	RSG 206048 0204
	Exclusion - Broadcasting, Advertising and Publishing	RSG 206050 0310
	Exclusion - Discrimination	RSG 206056 0204
	Exclusion - Employment Practices Claim	RSG 206057 0808
	Exclusion - Specific Entities and Individuals - Pacific Gas and Electric	RSG 206077 1205
	Extradition Coverage	RSG 204174 0710
	Full Severability	RSG 214044 0204
	Fully Non-Rescindable Coverage	RSG 204157 0808
	Insuring Agreement A - Separate Limit - \$500K	RSG 204143 0407
	Severability of All Exclusions	RSG 204144 0407
	Severability of the Entity	RSG 214049 0407
	State Amendatory Discrepancy	RSG 204150 1207



**SAN BURNO COMMUNITY FOUNDATION
NON-PROFIT DIRECTORS AND OFFICERS LIABILITY
2014-15 PROPOSAL - RSUI**

EXTENDED REPORTING PERIOD: ERP 365 Days 75% of Full Annual Premium

CANCELLATION TERMS: 10 days for non-payment

BINDING CONDITIONS:

- Written request to bind coverage
- An acceptable RSUI main form D&O application signed and dated by the President or Chairman of the Board (**required prior to binding**).

BROKER: **ALLIANT INSURANCE SERVICES, INC.**
San Francisco, California

SERVICING CONTACT: Seth Cole, First Vice President
Direct: 415-403-1419
scole@alliant.com

Stacey L. Weeks, Unit Manager
Direct: 415-403-1448
sweeks@alliant.com

Phuntsok Gaphel, Account Representative
Direct: 415-403-1447
pgaphel@alliant.com

QUOTE VALID UNTIL: February 28, 2013



**SAN BURNO COMMUNITY FOUNDATION
NON-PROFIT DIRECTORS AND OFFICERS LIABILITY
2014-15 PROPOSAL - RSUI**

DISCLOSURES

This proposal of insurance is provided as a matter of convenience and information only. All information included in this proposal, including but not limited to personal and real property values, locations, operations, products, data, automobile schedules, financial data and loss experience, is based on facts and representations supplied to Alliant Insurance Services, Inc. by you. This proposal does not reflect any independent study or investigation by Alliant Insurance Services, Inc. or its agents and employees.

Please be advised that this proposal is also expressly conditioned on there being no material change in the risk between the date of this proposal and the inception date of the proposed policy (including the occurrence of any claim or notice of circumstances that may give rise to a claim under any policy which the policy being proposed is a renewal or replacement). In the event of such change of risk, the insurer may, at its sole discretion, modify, or withdraw this proposal whether or not this offer has already been accepted.

This proposal is not confirmation of insurance and does not add to, extend, amend, change, or alter any coverage in any actual policy of insurance you may have. All existing policy terms, conditions, exclusions, and limitations apply. For specific information regarding your insurance coverage, please refer to the policy itself. Alliant Insurance Services, Inc. will not be liable for any claims arising from or related to information included in or omitted from this proposal of insurance.

Alliant embraces a policy of transparency with respect to its compensation from insurance transactions. Details on our compensation policy, including the types of income that Alliant may earn on a placement, are available on our website at www.alliantinsurance.com. For a copy of our policy or for any inquiries regarding compensation issues pertaining to your account you may also contact us at: Alliant Insurance Services, Inc., Attention: General Counsel, 701 B Street, 6th Floor, San Diego, CA 92101.

Analyzing insurers' over-all performance and financial strength is a task that requires specialized skills and in-depth technical understanding of all aspects of insurance company finances and operations. Insurance brokerages such as Alliant Insurance typically rely upon rating agencies for this type of market analysis. Both A.M. Best and Standard and Poor's have been industry leaders in this area for many decades, utilizing a combination of quantitative and qualitative analysis of the information available in formulating their ratings.

A.M. Best has an extensive database of nearly 6,000 Life/Health, Property Casualty and International companies. You can visit them at www.ambest.com. For additional information regarding insurer financial strength ratings visit Standard and Poor's website at www.standardandpoors.com.

Our goal is to procure insurance for you with underwriters possessing the financial strength to perform. Alliant does not, however, guarantee the solvency of any underwriters with which insurance or reinsurance is placed and maintains no responsibility for any loss or damage arising from the financial failure or insolvency of any insurer. We encourage you to review the publicly available information collected to enable you to make an informed decision to accept or reject a particular underwriter. To learn more about companies doing business in your state, visit the Department of Insurance website for that state.

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MEMORANDUM

SAN BRUNO COMMUNITY FOUNDATION

DATE: March 20, 2014

TO: Board of Directors, San Bruno Community Foundation

FROM: Marc L. Zafferano, City Attorney
Connie Jackson, City Manager
Mari Ellen Loijens, Silicon Valley Community Foundation

SUBJECT: Receive Report Regarding Ongoing Activities for Continuing Formation and Establishment of the San Bruno Community Foundation (SBCF)

Over the past several months, the Board has participated in three orientation sessions facilitated by City staff and the Silicon Valley Community Foundation (SVCF). The purpose of these sessions has been to: 1) introduce Board members to each other, City staff and its consultants in a less formal public working session; 2) provide background regarding the formation and establishment of the SBCF; 3) provide information regarding the role and duties of the organization, its Board members, and officers; and 4) identify and discuss the many decisions that need to be made and implemented before the SBCF can begin its main work of receiving, managing, and planning for distributing the funds received by the City as part of its settlement from PG&E.

During the course of these orientation sessions, Board members, City staff and its consultants have identified over two dozen topics that will need Board attention. These items range from relatively simple (format of Board meeting minutes, logistics of meetings) to complex multi-step tasks (preparation of the 501(c)(3) application), with an entire range of other policy-making and procedural tasks in between. The Executive Committee has reviewed a preliminary list of these items, as well as a rough priority ordering, which will be scheduled for more detailed discussions at their regular meetings. Once reviewed, the items will be scheduled for presentation, discussion, and decision at the next few public meetings of the full Board.

There has been some discussion about the possibility that these items could move forward more quickly, or perhaps in concurrent fashion with other items, by forming Board or advisory committees to do some preliminary work, which would then be presented to the Board. City staff and its consultants advise against this approach, primarily because it could delay positive progress. Without full Board discussion, input and direction at the beginning of the process, forming committees is likely to generate any number of options, analyses, documents, and expectations that will be difficult to modify or dispel once the item comes to the full Board. In addition, given the unique nature of the SBCF as both a non-profit and a public entity, it is essential that City staff

SBCF Mtg Date: 3.20.14
Item No. 76

and the consultants participate early, and fully, in the development of the options and analyses for full Board consideration. Therefore, it is recommended that these topics be vetted through the Executive Committee as part of its agenda-setting role so that the staff work associated with these items can be focused and complete. Once a staff report is presented to the Board on a particular topic, the Board can decide to form committees as necessary and appropriate to implement the Board's policy direction and return with recommendations. More generally, the City Council, City staff, and its consultants remain committed to timely, orderly, and successful completion of the formation and establishment of the SBCF.

At this time, there are several items of information and progress to report.

1. City staff has arranged to provide official email addresses for all Board members. As the Board may recall, emails regarding SBCF business are presumptively public records, unless exempted by the provisions of the Public Records Act. The Act requires the SBCF to maintain access to these records in a secure format for retrieval in the event of a request. The best solution available is to use the City's server, which is protected by various security protocols, and which allows sorting and retrieval. City staff explored other alternatives, such as using Yahoo, Microsoft, or Gmail accounts, but there was no clear way to set them up to guarantee access and security to an off-site server or "cloud" that is controlled by a third party and used by millions of other people. Therefore, it is recommended that the email accounts be set up on the City's server using the following format, for example: nkraus-sbcf@sanbruno.ca.gov.
2. The City's consultants at the SVCF have filed with the IRS the appropriate forms to confirm that at this time, the SBCF does not have any employees. SVCF has been retained to continue filing the appropriate routine state and federal forms for the organization, and we will keep you posted if any of the forms require direction from the Board prior to filing.
3. A question was raised at the last orientation session on February 15, 2014, as to whether the SBCF would be required to fund-raise to avoid an IRS determination that might convert it to a private foundation in the future. Private foundations are subject to various regulations that would not be consistent with the intent of the City Council in forming the SBCF. The City's outside counsel reviewed this issue, and concluded that since the SBCF was formed and funded by and for the benefit of the City and its residents, it would fall into the "supporting organization" exception to a private foundation, as specified in Internal Revenue Code section 509(a). The attorney has successfully used this designation for non-profits established by other cities. This issue will be fully analyzed as part of the SBCF's 501(c)(3) application. Note that the SBCF could choose to either fund-raise or apply for grant funding as part of its activities or projects at any time.

4. The Board president reported at the last orientation session that she had procured some possible logos for the SBCF from art students at Cappuccino High School. We are evaluating the legal implications of using those logos and will report back.
5. City staff and its consultants are working with the Executive Committee to develop a timeline of the remaining tasks that will require Board action, all culminating in the preparation and filing of the 501(c)(3) application and transfer of the funds from the City to the SBCF. That timeline will be provided to the full Board at an upcoming meeting, and will serve as a template for the next several meetings through the end of June 2014.

555 12th Street, Suite 1500
Oakland, California 94607
tel (510) 808-2000
fax (510) 444-1108
www.meyersnave.com

Britt K. Strottman
Attorney at Law
Direct Dial: (510) 808-2000
bstrottman@meyersnave.com

MEMORANDUM

Via Electronic Mail Only

DATE: March 13, 2014
TO: San Bruno Community Foundation Board Members
FROM: Britt K. Strottman
COPY: Connie Jackson, City Manager
Marc Zafferano, City Attorney
RE: Conflict of Interest Policy

What is a Conflict of Interest Policy?

A conflict of interest policy is intended to help ensure that when actual or potential conflicts of interest arise in a nonprofit organization, the organization has a set process in place under which the individual at issue will advise the governing body about the relevant facts concerning the actual or potential conflict. The purpose of a conflict of interest policy is to protect the nonprofit's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of a director, officer or other person in a position of authority within the nonprofit. A conflict of interest policy also establishes written procedures under which individuals who have an actual conflict of interest will be excused from voting on such matters. A conflict of interest policy is intended to supplement, but not replace, any state and federal laws governing conflicts of interest applicable to nonprofit and charitable organizations (see below).

Why Have a Conflict of Interest Policy?

Nonprofit organizations are at times subject to intense public scrutiny, especially where their officers, directors, and/or trustees have appeared to have inappropriately benefited from a

To: Memo to San Bruno Community Foundation Board Members
From: Britt K. Strottman
Re: Conflict of Interest Policy
Date: March 13, 2014
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particular transaction.¹ Consequently, conflicts of interest have the potential to jeopardize a nonprofit's tax-exempt status and damage its reputation.

Although conflict of interest policies are not required to obtain federal tax exemption status, the IRS also has an oversight role with respect to charitable organizations. The IRS will ask the San Bruno Community Foundation in its tax exemption status application and form 990 (which provides the public with financial information about a given organization) not only about whether the nonprofit has a written conflict of interest policy, but also the process the nonprofit uses to handle conflicts, as well as how the nonprofit determines whether board members have a conflict of interest.²

What is a Conflict of Interest?

Acts that mix the personal or financial interests of an Interested Person with the interests of the nonprofit are indicative of a conflict of interest. A conflict of interest occurs where an individual's obligation to further the organization's charitable purposes is at odds with their own financial interests.³ For example, a conflict of interest would occur where an officer, director, or trustee votes on a contract between the organization and a business that is owned by the officer, director or trustee.

The Conflict of Interest Policy Supplements State Law

The recommended conflict of interest policy makes it clear in its preface that it supplements, but does not replace state or federal legal requirements. It also makes it clear that if the policy conflicts with the applicable state or federal laws governing conflict of interest, those laws prevail. The policy also expressly indicates that the requirements of Section 5233 relating to conflicts of interest/"self-dealing transactions" under the California corporations code applies. That provision relates to "self-dealing transactions" and uses terms such as "material financial interest" and "interested director."

¹ Language derived from the IRS at <http://www.irs.gov/Charities-&-Non-Profits/Form-1023:-Purpose-of-Conflict-of-Interest-Policy>

² Form 1023, see Part V: <http://www.irs.gov/pub/irs-pdf/f1023.pdf>

³ See: <http://www.irs.gov/Charities-&-Non-Profits/Form-1023:-Purpose-of-Conflict-of-Interest-Policy>

To: Memo to San Bruno Community Foundation Board Members
From: Britt K. Strottman
Re: Conflict of Interest Policy
Date: March 13, 2014
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What Else Should the Board do to Address Conflicts of Interest?

Minutes of board meetings should expressly reflect 1) when a board member discloses that the board member has a conflict of interests; 2) and how the conflict was managed, for example, that there was a discussion on the matter without the board member in the room and that a vote was taken, but that the "interested" board member abstained.

Many nonprofits circulate an annual form to board members (and could include staff members) to find out whether any board member has a potential or an actual conflict of interest. The questionnaire asks board members to disclose existing conflicts and reminds board members to disclose any potential/actual conflicts that may materialize in the future.

BKS:BKS
2252065.1

SAN BRUNO COMMUNITY FOUNDATION
Conflict of Interest Policy

ARTICLE I
Purpose

The purpose of the conflict of interest policy is to protect this tax-exempt organization's (Organization) interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Organization or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations. If this policy is in conflict with applicable state (including Corporations Code Section 5233) and federal laws governing conflict of interest, the applicable state and federal laws prevail.

ARTICLE II
Definitions

1. Interested Person

Any director, principal officer, or member of a committee with governing board delegated powers, who has a direct or indirect Financial Interest, as defined below, is an Interested Person.

2. Financial Interest

A person has a Financial Interest if the person has, directly or indirectly, through business, investment, or family:

(a) An ownership or investment interest in any entity with which the Organization has a transaction or arrangement,

(b) A compensation arrangement with the Organization or with any entity or individual with which the Organization has a transaction or arrangement, or

(c) A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Organization is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

A Financial Interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a Financial Interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists.

ARTICLE III Procedures

1. Duty to Disclose

In connection with any actual or possible conflict of interest, an Interested Person must disclose the existence of the Financial Interest and be given the opportunity to disclose all material facts to the directors and members of committees with governing board delegated powers considering the proposed transaction or arrangement.

2. Determining Whether a Conflict of Interest Exists

After disclosure of the Financial Interest and all material facts, and after any discussion with the Interested Person, he/she shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

3. Procedures for Addressing the Conflict of Interest

(a) An Interested Person may make a presentation at the governing board or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

(b) The chairperson of the governing board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

(c) After exercising due diligence, the governing board or committee shall determine whether the Organization can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

(d) If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the governing board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Organization's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.

4. Violations of the Conflicts of Interest Policy

(a) If the governing board or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member

of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

(b) If, after hearing the member's response and after making further investigation as warranted by the circumstances, the governing board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

ARTICLE IV

Records of Proceedings

The minutes of the governing board and all committees with board delegated powers shall contain:

(a) The names of the persons who disclosed or otherwise were found to have a Financial Interest in connection with an actual or possible conflict of interest, the nature of the Financial Interest, any action taken to determine whether a conflict of interest was present, and the governing board's or committee's decision as to whether a conflict of interest in fact existed.

(b) The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

ARTICLE V

Compensation

(a) A voting member of the governing board who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that member's compensation.

(b) A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that member's compensation.

(c) No voting member of the governing board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

ARTICLE VI

Annual Statements

Each director, principal officer and member of a committee with governing board delegated powers shall annually sign a statement which affirms such person:

- (a) Has received a copy of the conflicts of interest policy,
- (b) Has read and understands the policy,
- (c) Has agreed to comply with the policy, and
- (d) Understands the Organization is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

ARTICLE VII

Periodic Reviews

To ensure the Organization operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- (a) Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining.
- (b) Whether partnerships, joint ventures, and arrangements with management organizations conform to the Organization's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

ARTICLE VIII

Use of Outside Experts

When conducting the periodic reviews as provided for in Article VII, the Organization may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted, except where otherwise provided by a court of competent jurisdiction.

2252062.1

MEMORANDUM

SAN BRUNO COMMUNITY FOUNDATION

DATE: March 20, 2014

TO: Board of Directors, San Bruno Community Foundation

FROM: Mari Ellen Loijens, Silicon Valley Community Foundation

SUBJECT: Receive Report and Provide Direction Regarding Whistleblower Policy for the San Bruno Community Foundation (SBCF)

On the Internal Revenue Service's (IRS) Form 990, the IRS requires nonprofits to identify certain specific policies and whether they have been adopted by the organization filing. Under Part VI Governance, Management, and Disclosure, Section B. Policies, #13 specifically asks, "Did the organization have a written whistleblower policy?" It is widely considered an industry governance best practice to have a whistleblower policy. The policy must be adopted before the end of the organizations tax year in order for an organization to check this box as "yes."

As stated by the IRS in the Form 990 Instructions:

A whistleblower policy encourages staff and volunteers to come forward with credible information on illegal practices or violations of adopted policies of the organization, specifies that the organization will protect the individual from retaliation, and identifies those staff or board members or outside parties to whom such information can be reported.

Further, the IRS states under "TIP":

Certain federal or state laws provide protection against whistleblower retaliation and prohibit destruction of certain documents. For instance, while the federal Sarbanes-Oxley legislation generally does not pertain to tax-exempt organizations, it does impose criminal liability on tax-exempt as well as other organizations for (1) retaliation against whistleblowers that report federal offenses, and (2) for destruction of records with the intent to obstruct a federal investigation. See 18 U.S.C. sections 1513(e) and 1519. Also note that an organization is required to keep books and records relevant to its tax exemption and its filings with the IRS. Some states provide additional protection for whistleblowers.

The attached policy provides that Board Members may report issues directly to the Board Chair, or to the City Manager. The policy encourages reporting within the organization so that a full investigation can be completed if the facts and circumstances so warrant.

It is recommended that the SBCF Board review the attached policy, provide any direction, and then adopt a Whistleblower Policy before the end of its first Fiscal year on June 30, 2014.

San Bruno Community Foundation

SUBJECT: Whistleblower Policy
EFFECTIVE DATE:

PURPOSE

The San Bruno Community Foundation (SBCF) requires directors to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As representatives of SBCF, we must practice honesty and integrity in fulfilling our responsibilities and comply with all applicable laws and regulations.

SCOPE

All directors are covered by the scope of this policy and its guidelines.

POLICY

It is the responsibility of all directors to comply with this whistleblower policy by reporting violations or suspected violations in accordance with this policy.

The objective of the SBCF's whistleblower policy is to:

- Prevent or detect and correct improper activities
- Encourage each director to report what he or she in good faith believes to be a material violation of law or policy or questionable accounting or auditing matter by the SBCF
- Ensure the receipt, documentation, retention of records and resolution of reports received under this policy
- Protect reporting individuals from retaliatory action

Reporting individuals must also notify the SBCF if an action needs to be taken in order for the SBCF to be in compliance with law, policy or with generally accepted accounting practices. The types of concerns that should be reported include, for purposes of illustration and without being limited to, the following:

- Providing false or misleading information in the SBCF's financial documents, grant reports, tax returns or other public documents
- Providing false information to or withholding material information from the SBCF's auditors, accountants, lawyers, directors or other representatives responsible for ensuring the SBCF's compliance with fiscal and legal responsibilities
- Embezzlement, private benefit, or misappropriation of funds
- Material violation of SBCF policy including, among others, confidentiality, conflict of interest, whistleblower, ethics and document retention
- Discrimination based on race, gender, sexual orientation, ethnicity, disability or others protected by law
- Facilitation or concealing any of the above or similar actions

REPORTING CONCERNS

San Bruno Community Foundation

Directors

Directors may submit concerns to the board chair. If the director is not comfortable reporting to the board chair, or if he/she does not believe the issue is being properly addressed, the director may report directly to the City Manager of the City of San Bruno.

HANDLING OF REPORTED VIOLATIONS

The SBCF will investigate all reports filed in accordance with this policy with due care and promptness. Matters reported internally without initial resolution will be investigated by the president/board chair to determine if the allegations are true, whether the issue is material and what actions, if any, are necessary to correct the problem. The SBCF will issue a full report of all matters raised under this policy to the full board of directors.

For matters reported directly to the City Manager, the City Manager shall promptly (generally within five business days) acknowledge receipt of the complaint to the complainant if the complainant is known. An investigation will be held to determine if the allegations are true, whether the issue is material and what, if any, corrective action is necessary. Upon the conclusion of this investigation, the City Manager shall promptly report any findings to the full board of directors.

Authority of the Board Chair

The board chair shall have full authority to investigate concerns raised in accordance with this policy and may retain outside legal counsel, accountants, private investigators, or any other resource that they believe is necessary to conduct a full and complete investigation of the allegations.

No Retaliation

No director who in good faith reports a violation of the policy shall suffer harassment, retaliation, or adverse consequence. This policy is intended to encourage and enable directors to raise serious concerns within the organization prior to seeking resolution outside the organization.

Acting in Good Faith

Anyone filing a complaint concerning a violation or suspected violation of the policy must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation of the policy. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

Confidentiality

Violations or suspected violations may be submitted on a confidential basis by the complainant or may be submitted anonymously. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

MEMORANDUM

SAN BRUNO COMMUNITY FOUNDATION

DATE: March 20, 2014

TO: Board of Directors, San Bruno Community Foundation

FROM: Mari Ellen Loijens, Silicon Valley Community Foundation

SUBJECT: Receive Report Regarding Budget Update for the San Bruno Community Foundation (SBCF)

In order to apply for tax-exempt status, the SBCF will need to complete the Internal Revenue Service's (IRS) Form 1023. In the Form 1023, Part IX Financial Data, the IRS requires that the applying organization submit a three year budget. A template for the budget can be found in Attachment A.

While the Board of the SBCF may alter its budget from year to year as required after submission, the intent of submitting the financial data is to demonstrate how the mission of the organization will be implemented. Therefore, "a reasonable and good faith" estimate is required of the budget filing.

A number of decisions will need to be made in order to complete the budget. The following highlights a few of those decisions and their associated line items:

- Salaries and wages – a basic plan of staff hiring should be identified and estimates for the salaries of any potential staff.
- Grants and assistance to others – an estimate of anticipated grants through the three-year term.
- Occupancy – determine if the SBCF will have office space and estimated costs associated with occupancy.
- Insurance – estimates of D&O insurance and other potential insurance costs in the first three years.
- Consultants – a variety of decision might be part of this line item. The most significant could be investment consulting services.

While the Silicon Valley Community Foundation (SVCF) consultant can provide estimates for filing, the SBCF Board should address some of these high-level decisions in order to confidently file a reasonable and good faith estimate.

Attachment A

SBCF Mtg Date: 3-20-14
Item No. 7d

STATEMENT OF PROJECTED REVENUE AND EXPENSES

	Assumptions	Notes	Year One*	Year Two	Year Three	Total
INCOME						
Gifts, grants, and contributions:						
Government grants			\$ -	\$ -	\$ -	\$ -
Public charity grants			-	-	-	-
Private foundation grants			-	-	-	-
Corporate contributions			-	-	-	-
Establishing contribution in Year 1. No additional Contributions in Years 2 and 3.			-	-	-	-
Individual contributions			-	-	-	-
Program-related income			-	-	-	-
Unrelated business income			-	-	-	-
Investment income (interest, etc.)		3	-	-	-	-
Earnings net of investment management fees Year 1, 2, and 3			-	-	-	-
Other			-	-	-	-
Total Income			-	-	-	-
EXPENSES						
Salaries and wages:		1				
Directors and officers						
Executive Director			-	-	-	-
Program officers and other staff						
Administrative Assistant in Year 2 -			-	-	-	-
Program Officer in Year 3			-	-	-	-
Subtotal salary and wages			-	-	-	-
Payroll taxes and benefits - to include everything provided by SVCF						
Executive Director end of Year 1, 2, 3- 21%, 19%, 19%			-	-	-	-
Administrative Assistant in Year 2 and 3- 39%, 39%			-	-	-	-
Program Officer in Year 3 - 24%			-	-	-	-
Grants and assistance to others						
Estimated 5% Distribution Years 2 and 3			-	-	-	-
Occupancy			-	-	-	-
Insurance						
D&O Insurance Year 1, 2, and 3			-	-	-	-
Telecommunications			-	-	-	-
Postage & shipping						
Mailing to the SB community in Year 1			-	-	-	-
Mailing of annual report in Years 2 and 3			-	-	-	-
Printing & copying						
Printing of new collateral Year 1			-	-	-	-
Annual report Year 2 and Year 3			-	-	-	-
Letterhead Years 1, 2, and 3			-	-	-	-
Office supplies			-	-	-	-
Office equipment & furniture			-	-	-	-
Legal, accounting & payroll services						
Legal for Set up of Foundation and other in years 1, 2, and 3			-	-	-	-
990 Fee Payable to Audit/Tax Firm Years 2, and 3			-	-	-	-
Audit Fee Payable to Audit/ Tax Firm Years 2, and 3			-	-	-	-
Payroll service provider in Years 1, 2, and 3 assuming ED is hired at end of Year 1			-	-	-	-
Travel						
Travel for conference in Year 2 (1 staff) Year 3 (2 staff)			-	-	-	-
Consultants		2				
Investment Consultant Years 2 and 3 assuming consultant begins works at end of year		4	-	-	-	-
HR recruiting firm for hire of ED Year 1- 25-30% of starting salary			-	-	-	-
Consulting Provided by SVCF Years 1, 2, and 3		5	-	-	-	-
Marketing Consultant for website design and development in Year 1 and 2 assuming work flows into Year 2 ; Website update costs.			-	-	-	-
Marketing Consultant for design and development of Collateral including letterhead in Years 1 and 2 assuming work flows into Year 2 . Other design costs in Year 3.			-	-	-	-
Other						
Internal meetings in years 1, 2 and 3			-	-	-	-
Conferences in Year 3 (2 staff)			-	-	-	-
HR comp survey in Years 1, 2, 3- assuming this must happen every year for ED salary review			-	-	-	-
Total Expenses			-	-	-	-
Net Change			\$ -	\$ -	\$ -	\$ -